

REMARKS/ARGUMENTS

Reexamination of the captioned application is respectfully requested.

A. SUMMARY OF THIS AMENDMENT

By the current amendment, Applicants basically:

1. Editorially amend the specification.
2. Amend independent claims 36, 60, and 70 to specify that actions included therein are performed for each access selection.
3. Editorially amend claims 48, 49 and 51-57 (see Remarks section B).
4. Add new independent claim 71 (see Remarks section B)
5. Respectfully traverse all prior art rejections (see Remarks section C).

B. AMENDMENTS TO THE CLAIMS AND THE NEW CLAIM

Independent claims 36, 60, and 70 have been amended to specify that actions included therein are performed for each access selection. The amendment is amply supported by the flowchart of Fig. 2 and textual description thereof.

Claims 48, 49 and 51-57 have been amended editorially either to correct claim dependency (in the case of dependent claim 48), to correct antecedent basis (in the case of claim 49), or to clarify the word “accesses” with the phrase “access networks”.

New independent claim 71 resembles independent claim 60, but is not couched in means plus function terminology.

C. PATENTABILITY OF THE CLAIMS

Claims 36-39, 45, 51, 52, 54, 56, 58-62 and 68-70 stand rejected under 35 USC 102(b) as being anticipated by U.S. Publication 2003/0083069 to Vadgama. Claim 46 stands rejected under 35 USC §103(a) as being unpatentable over U.S. Publication 2003/0083069 to Vadgama in view of U.S. Publication 2002/0046292 to Tennisonl et al. Claim 47 stands rejected under 35 USC §103(a) as being unpatentable over U.S. U.S. Publication

2003/0083069 to Vadgama in view of U.S. Publication 2003/0156580 to Abraham et al. Claims 40-44, 48-50 and 63-67 stand rejected under 35 USC §103(a) as being unpatentable over U.S. U.S. Publication 2003/0083069 to Vadgama. Claims 53, 55 and 57 stand rejected under 35 USC §103(a) as being unpatentable over U.S. U.S. Publication 2003/0083069 to Vadgama in view of U.S. Publication 2004/0116110 to Amerga et al. All prior art rejections are respectfully traversed for at least the following reasons.

Applicants disclose example embodiments of a method and arrangement in which for each access selection a terminal measures a load or usage or utilization of a radio access, typically in combination with a radio signal quality measurement, to estimate a user perceived quality measure of an access point or node. Thus, for each access selection Applicants' example embodiments enable a user perceived data quality estimate prior to accessing a network, which takes load or utilization in to account, enabling a terminal based best user quality access selection in a multi-access multi-operator environment.

The first and second embodiments of US 2003/0083069 to Vadgama involve selection of a cell with a low congestion level if the signal quality difference between two cells is below a certain threshold. *See*, e.g., paragraphs [0083] and [0122] of Vadgama. In essence, in these embodiments Vadgama provides a screening method wherein a cell is selected based on a relative comparison between signal quality of two cells. Vadgama's first and second embodiments do not even use congestion as cell selection criteria except in "certain circumstances" in which the signal quality difference between two cells is below a certain threshold. Thus, Vadgama does not teach or suggest, e.g.,

determining for each access selection a radio quality from the terminal to each access network,

determining, for each access selection and for each access network, a utilization factor for at least one node,

determining, for each access selection and for each access network, a user perceived data quality, based on said determined utilization factor and said determined radio quality for the access network, ...

Thus, Vadgama does not anticipate Applicants' independent claims 36, 60, 70, and 71.

Moreover, in Vadgama's first, third, and fourth embodiments the base station (not the mobile unit) determines congestion. In the third embodiment, if the base station determines a cell to be too congested, the base station does not transmit data to a particular mobile station even if the mobile station has selected the base station for data transmission (see paragraphs [0135] and [0145] of Vadgama. Thus, these embodiments of Vadgama do not have, e.g., a user perceived data quality estimate.

Regarding claim 37, Vadgama's term "bit error rate" should not to be confused with the term "bit rate" as used by Applicants. The bit rate is a measure of the number of bits that are conveyed or processed per unit of time. By contrast, the bit error rate or BER is the ratio of number of bits incorrectly received to a total number of bits. Consequently, dependent claim 37 is novel over Vadgama.

Regarding claim 38, Vadgama further fails to disclose determining estimating a bit rate, specifically determining a bit rate as a function of the signal quality according to an access specific function. The paragraphs cited in the Office Action do not disclose any of the above features. Consequently, dependent claim 38 is novel over Vadgama.

Regarding claim 39, the same argumentation as for claim 38 is applicable. Consequently, dependent claim 39 is novel over Vadgama.

Regarding claims 40-44, the same argumentation as for claim 36 is applicable. Consequently, dependent claims 40-44 are novel over Vadgama.

Regarding claim 45, the same argumentation as for claim 36 is applicable. In addition, see arguments concerning the error of assuming that “bit error rate” and “bit rate” are equal entities. Consequently, dependent claim 45 is novel over Vadgama.

Regarding claims 46-50, the same argumentation as for claim 36 is applicable. Consequently, dependent claims 46-50 are novel over Vadgama.

Regarding claims 51-59, the same argumentation as for claim 36 is applicable. Consequently, dependent claims 51-59 are novel over Vadgama.

D. MISCELLANEOUS

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly requested.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,
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